

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 360

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO LOCAL GOVERNMENTS; PROVIDING PROCEDURES FOR THE  
APPLICATION OF THE HISTORIC DISTRICT AND LANDMARK ACT TO STATE  
CAPITAL OUTLAY PROJECTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Historic District and  
Landmark Act is enacted to read:

"[NEW MATERIAL] APPLICABILITY TO STATE CAPITAL OUTLAY  
PROJECTS--LIMITATION.--

A. Recognizing the fragility of the state's  
historic heritage, the purpose of this section is to establish  
a procedure under which the state and its municipalities and  
counties will commit to collaborate in good faith and work  
jointly to preserve and protect the historic districts of New  
Mexico.

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1           B. Ordinances enacted by a municipality or county  
2 pursuant to the Historic District and Landmark Act shall apply  
3 to a state capital outlay project only as provided in this  
4 section and only if the ordinances contain special provisions  
5 and standards applicable to state buildings, including  
6 provisions concerning the design, construction, alteration or  
7 demolition of the exterior features of state buildings. If  
8 requested by a resolution of the governing body of a  
9 municipality or county, the staff of the capitol buildings  
10 planning commission shall work jointly with the staff of the  
11 municipality or county in developing the provisions and  
12 standards required by this subsection.

13           C. The applicable state agency shall carry out a  
14 capital outlay project in a manner that is harmonious and  
15 generally compatible with the municipal or county ordinances.

16           D. Before commencing the design phase of a capital  
17 outlay project, the applicable state agency shall consult with  
18 the municipality or county as to the design standards in the  
19 ordinances and how those design standards would impact costs  
20 and the operation or manner in which the capital outlay project  
21 will ultimately be expected to function, provided that, if the  
22 municipality or county has an agency or other entity review  
23 projects within the area zoned as an historic district or  
24 landmark, then the consultation shall be with that review  
25 agency or other entity. The state agency shall work

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1 collaboratively with the municipality or county or its review  
2 agency or other entity to arrive at compatibility with the  
3 design standards, considering reasonable costs and preserving  
4 essential functionality. If the municipality or county has  
5 identifiable community groups involved in historic  
6 preservation, the agency shall also make every reasonable  
7 effort to obtain input from members of those identified groups  
8 before commencing the design phase.

9 E. After the design phase and before soliciting a  
10 bid or a proposal for design-build or lease-purchase for a  
11 capital outlay project, the applicable state agency shall  
12 transmit its plans for review and comment to the municipality  
13 or county or its review agency or other entity and shall also  
14 conduct a public meeting to receive public input. Notice of  
15 the public meeting shall also be given to any identifiable  
16 community groups involved in historic preservation in the  
17 municipality or county.

18 F. Within sixty days after the public meeting, the  
19 municipality or county or its review agency or other entity,  
20 any identifiable historic preservation community group and any  
21 other interested party shall communicate recommendations and  
22 comments in writing to the state agency. The state agency  
23 shall consult with the municipality or county or its review  
24 agency or other entity to resolve any issues raised. If, at  
25 the end of the sixty-day period, unresolved issues remain, the

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1 municipality or county may, within five days after the end of  
2 the period, notify the applicable state agency that the issues  
3 remain unresolved and should be finally determined pursuant to  
4 Subsection G of this section; provided that, if notice is not  
5 timely given, the applicable state agency may, after  
6 incorporating those provisions to which the state agency and  
7 the municipality or county have agreed, proceed with the  
8 capital outlay project.

9 G. If notice is timely given by a municipality or  
10 county, pursuant to Subsection F of this section, that issues  
11 remain unresolved, those issues shall be decided pursuant to  
12 the following provisions:

13 (1) within five days after the notice, a  
14 state-local government historic review board shall be formed,  
15 consisting of eight members as follows:

16 (a) one member appointed by the capitol  
17 buildings planning commission, who shall chair the board and  
18 who shall vote only if there is a tie among the other board  
19 members present;

20 (b) one member appointed by the cultural  
21 properties review committee;

22 (c) the state historic preservation  
23 officer or a designee of the officer;

24 (d) one member appointed by the agency  
25 or other entity that reviews projects within the area zoned as

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1 an historic district or landmark, provided that, if the  
2 municipality or county has no such agency or other entity, the  
3 member shall be appointed by the governing body of the  
4 municipality or county;

5 (e) one member appointed by the agency  
6 or entity of the municipality or county that is concerned with  
7 historic preservation, provided that, if the municipality or  
8 county has no such agency or other entity, the member shall be  
9 appointed by the governing body of the municipality or county;  
10 and

11 (f) three public members who have a  
12 demonstrated interest in historic preservation appointed as  
13 follows: one member appointed by the secretary of general  
14 services, one member appointed by the governing body of the  
15 municipality or county and one public member appointed by the  
16 other two public members;

17 (2) the staff of the capitol buildings  
18 planning commission shall serve as the staff of the state-local  
19 government historic review board; and

20 (3) the state-local government historic review  
21 board shall, at a public meeting, consider each of the  
22 unresolved issues and, within twenty days of its formation  
23 shall, for each issue, make a final decision that is harmonious  
24 and generally compatible with the municipal or county  
25 ordinance.

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H. Appeals from the decisions of the state-local government historic review board shall be taken to the district court in the manner provided in Section 39-3-1.1 NMSA 1978.

I. The state agency shall not take any irrevocable action on the capital project in reliance on the plans until the procedures set forth in Subsections F and G of this section have been followed."

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